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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

Senate Bill 811

Sponsor: Senator Virgil C. Smith, Jr.

Committee: Finance

Date Completed: 2-20-90

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SUMMARY OF SENATE BILL 811 as introduced 2-15-90:

The bill would create a new act to reinstitute the City Utility Users Tax Act, provide that the bill's provisions would apply retroactively, and provide a statement of legislative intent regarding the City Utility Users Tax Act that has been ruled expired.

Detroit has levied a tax on all utility bills within the city since 1970, under authority granted to it by the City Utility Users Tax Act. (The Act limits imposition of the tax to cities with 1 million or more population.) The Act contains a provision for its expiration on June 30, 1988. The city continued to collect the tax based on an Attorney General Opinion (No. 6438, May 21, 1987), however, which found that the expiration dates in several acts (including the City Utility Users Tax Act) were invalid because they were not referred to in the Act's titles. On February 2, 1990, a Wayne County circuit judge ruled that the Act had in fact expired on June 30, 1988, and that the city had improperly collected the tax since that date.

The bill would re-establish the entire Act, and would further provide that it would apply retroactively beginning July 1, 1988. All actions taken by the city regarding the imposition, collection, and enforcement of the tax before the effective date of the bill would be ratified.

The bill also contains the following statement of legislative intent:

This act is intended to eliminate the confusion surrounding the legal status of Act No. 198 of the Public Acts of 1970 resulting from an opinion of the attorney general regarding the validity of enactment of various public acts OAG, 1987-1988, No 6438, p 80 (May 21, 1987) and a circuit court decision in the matter of Ace Tex Corp v Detroit rendered on February 2, 1990 (Wayne County Circuit Court Case No. 88-807858-CZ), as to which an appeal is pending, and to resolve legislatively the issues raised by the appeal. Before that circuit court decision, the legislature had been advised by the attorney general's office in May 1987 that legislative action was not necessary to authorize the collection of the city utility users tax after July 1, 1988 under Act No. 198 of the Public Acts of 1970. In light of the circuit court decision of February 2, 1990, which is presently on appeal, it appears that legislative action is advisable to clarify the authorization for and to ratify the collection of the tax from July 1, 1988, to authorize the continued collection of the tax, and to resolve legislatively the issues raised by appeal. The legislature

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by enactment of this act intends to validate, ratify, and revive effective from July 1, 1988 a city utility users tax. This act is remedial and curative and is intended to revive and assure an uninterrupted continuation of the authority to collect a city utility users tax. The legislature finds the city utility users tax was authorized by law on the date when section 31 of article IX of the state constitution of 1963 was ratified.

Legislative Analyst: G. Towne

FISCAL IMPACT

The passage of Senate Bill 811 would retroactively reimpose the city utility users tax back to July 1, 1988. This provision would allow the City of Detroit to avoid refunding to taxpayers the approximately \$126.4 million of utility users taxes collected since July 1, 1988. The passage of the bill would also permanently extend the tax, ensuring that the City of Detroit continued to receive the estimated \$58.7 million of annual utility tax revenue in future fiscal years.

Fiscal Analyst: G. Olson

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.